

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JARRED JOHNSON,)	
)	
Plaintiff,)	
)	CASE NO. 3:12-cv-00186
v.)	District Judge Trauger
)	Magistrate Judge
)	
TRUCAP REO CORP.,)	Removed from the Chancery
MARIX SERVICING, and WEISS)	Court for the 21st Judicial
SPICER CASH, PLLC)	District of Tennessee
)	(Williamson County)
Defendants.)	No. 40536

**MOTION OF MARIX SERVICING, LLC AND TRUCAP REO CORP.
TO ASCERTAIN STATUS OF PENDING MOTION TO DISMISS**

Pursuant to Local Rule 7.01(c) of the Local Rules of this Court, **COME NOW** Defendants Marix Servicing, LLC (“**Marix**”) and Trucap Reo Corp. (“**Trucap**”) (collectively, “**Defendants**”), by and through their undersigned counsel, and hereby file this Motion to Ascertain Status of the Defendants’ Motion to Dismiss the Complaint, and Memorandum of Law in Support of said Motion to Dismiss, each duly filed with this Court on February 15, 2012 (Documents 6-7) (collectively, “**Motion to Dismiss**”). As grounds for this Motion, the Defendants respectfully submit as follows:

1. The Defendants removed the above-captioned action from the Williamson County, Tennessee Chancery Court on February 14, 2012. (Document 1). Counsel for the Plaintiff was duly added to the CM/ECF docketing and notification system on or around February 15, 2012.

2. On February 15, 2012, the Defendants filed the Motion to Dismiss.

3. Pursuant to the Local Rules of this Court, responses to the Motion to Dismiss were due within fourteen (14) days of the date the Motion to Dismiss was filed. Accordingly, any response to the Motion to Dismiss was due on or about February 29, 2012.

4. To the best of the Defendants' knowledge, to date the Plaintiff has not filed any response to the Motion to Dismiss, thirty-four (34) days after the Motion to Dismiss was filed.¹ Consequently, the Court may presume no opposition to the Motion to Dismiss. The Defendants submit that the Motion to Dismiss should be **GRANTED** for reasons stated therein.

5. Expedited disposition of the Motion to Dismiss is in the best interests of judicial economy, as no opposition has been filed and the Defendants are entitled to relief per Local Rule 7.01(b).

WHEREFORE, Defendants seek to ascertain the status of the pending Motion to Dismiss.

¹ Local Rule 7.01(f) provides:

When an action or proceeding is removed to this Court with pending motions on which briefs have not been submitted, the moving party shall comply with Rule 7.01(a) of these Rules within twenty-one (21) days after removal and each party opposing the motion shall then comply with Rule 7.01(b).

The Motion to Dismiss was originally filed in this Court, and was not pending in state court at the time of removal. Even if the Court were to apply the deadline set forth in LR 7.01(f), the Plaintiff still has not filed a timely Response per that provision.

Dated this the 20th day of March, 2012.

BONE McALLESTER NORTON PLLC

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*Counsel for Defendants, Trucap Reo Corp.
and Marix Servicing, LLC*

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the within and **MOTION OF MARIX SERVICING, LLC & TRUCAP REO CORP. TO ASCERTAIN STATUS OF PENDING MOTION TO DISMISS** with the Clerk of Court using the CM/ECF system that will automatically send e-mail notification of such filing to the attorneys of record, each of whom is a registered participant in the Court's electronic notice and filing system and each of whom may access said filing via the Court's CM/ECF system, and/or via first class United States Mail, postage prepaid to:

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Counsel for Plaintiff

Weiss Spicer Cash, PLLC
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On this the 20th day of March, 2012.

/s/ William J. Haynes, III